

DRAWINGS

Formal Drawings

The indication by the Examiner in the recent Office Action that the formal drawings filed on 2/4/1004 were approved by the Draftsman is noted with appreciation.

REMARKS

Status

No claim has been cancelled by the present amendment. Claims 10-20, including independent claims 10 and 11 have been added. Independent claim 1 with claims 2-8 depending therefrom, and independent claims 9-11, with claims 12-20 depending therefrom will remain for further consideration.

Claim History

The Examiner rejected claims 1-9 under 35 U.S.C. § 112, second paragraph, as being indefinite. The Examiner rejected claims 1, 2 and 9 under 35 U.S.C. § 102 as being anticipated by Elwin et al. The Examiner rejected claims 3-8 under 35 U.S.C. § 103 over Elwin et al.

FOREIGN PRIORITY CLAIM

The Examiner objected to the Oath or Declaration for failing to list the foreign application on which priority is claimed. The Applicant respectfully points out that an Application Data Sheet has been filed specifying the foreign priority claim and that therefore, it is not necessary to also claim the same in the oath or declaration. See MPEP 201.13 and 37 CFR 1.76. However, should the Examiner maintain his objection, the Applicant is willing to provide a new oath or declaration, should one be needed.

35 U.S.C. § 112

The Examiner rejected claims 1-9 under 35 U.S.C. § 112, second paragraph, as being indefinite. This rejection is respectfully traversed. In the Office Action, the Examiner says it is unclear how the “*eliminating* of the most likely to be disconnected potential services would determine aging.” However, a reading of the claims shows that the determination of aging services is achieved by “estimating” which of the potential services are likely to be disconnected, and for the purposes of this discussion, it is assumed that the Examiner meant “estimating” instead of “eliminating.”

As described according to one embodiment in the specification, after polling of the resources to determine whether a resource is still in use, a timer is initiated. If the timer reaches the predetermined time and no response (or one that doesn’t meet certain criteria) has been received, the resource is disconnected by timing out. A resource having this timer running is “aging.” By way of example, if a Group Specific Query has been sent and a response has not been received, there exists a probability that that group will be disconnected, and the longer the time since polling or querying, the higher the probability is that that resource will be disconnected. See specification at ¶[0031]. In this way, the aging services can be estimated by this likelihood existing of being disconnected. Aging as defined in this application “determines that the possibility exists that the group will be disconnected from the [resource] in the near future.” Since a timer is running on the resource to respond that it is in use or be disconnected, that resource is “aging.” Therefore, it is this “likelihood of being disconnected” that determines which services are

aging as recited in the claims. The Applicant thus respectfully requests that the Examiner withdraw his rejection of claims 1-9 under 35 U.S.C. § 112.

35 U.S.C. § 102

The Examiner rejected claims 1, 2 and 9 under 35 U.S.C. § 102 as being anticipated by Elwin et al. This rejection is respectfully traversed. The Examiner cites Elwin as teaching each and every aspect of the invention. However, nowhere does Elwin teach aging, where aging is determined by estimating which of the potential services are likely to be disconnected. Nowhere does Elwin initiate a timer or other mechanism after a resource fails to respond to a query. Nowhere does Elwin provide a likelihood of being disconnected by some means. Elwin merely shows the handing off of cellular telephone to a nearby tower to help free up resources of a full or nearly full tower. The telephones only voluntarily move over to the new tower, they are not disconnected. There is no calculation that the telephone is going to be disconnected, only a signal that the telephone *has been* handed off and a resource is now available. The telephones are not “aged” according to the definition provided in the application by “determining that the possibility that the group will be disconnected from the [resource] in the near future.” At best, Elwin determines which telephone has been connected the longest (no indicator that that telephone user will be the next to disconnect), and chooses that telephone to disconnect to connect an emergency service. It is important to note that a resource is aging when it has been selected for potential disconnect, it is not aging just because the service is in use. Here, calculating the length of time that a telephone has been in use is not the same as “aging” since there is no change in the likelihood that the telephone will be disconnected. In the

present application, the resource is disconnected whether or not the resource is needed. For at least these reasons, the claims should be allowed over the art of record.

Additionally, independent claim 9 provides for terminating aging, if the service provided by the resource is still in use. If the service is not in use, then a resource is disconnected to provide that service. This is antithetical to even the broad reading of Elwin by the Examiner. In the case of the emergency call disconnect of the “oldest” telephone service, there is no mechanism by which the aging of the calls can be stopped. There is also no reason to send out a service request to provide a service already in use. This is because a telephone service is not analogous to the provision of broadcast service and resources claimed in the application. For at least this reason, claim 9 should be allowed over the art of record.

New claim 10 recites polling resources and resetting a running timer if the resource sends back a response. A time out disconnect is performed if the timer runs a certain period, and an early disconnect is performed to connect a new service to the resource. Nowhere is this shown in Elwin.

New claim 11 recites providing a broadcast service over a plurality of resources. The resources are queried to determine if they are broadcasting a desired service, and if not, an aging resource is used to connect the requested service. For the reasons discussed above, this is not shown in Elwin. There is no reason in Elwin to determine what the resources are being used for, as only an emergency signal automatically kicks off a cellular phone user.

Claims 12-16 further define the services and resources of the claims. Claims 17-20 further define the type of aging in the claims. Nowhere are these recitations shown in Elwin, and therefore the claims should be allowed over the art of record.

For at least these reasons, the claims should be allowed over the art.

35 U.S.C. § 103

The Examiner rejected claims 3-8 under 35 U.S.C. § 103 over Elwin et al. This rejection is respectfully traversed. For the reasons described above, Elwin does not show the recitations of the independent claims, and therefore the dependent claims should be allowed for at least the same reasons.

Additionally, claim 3, 5, and 6 should be allowed as being non-obvious in view of Elwin. A disconnection in the present application and as recited in the claim does not occur because of “the connection is no longer in use,” rather it occurs because of the “likelihood” that the service will be disconnected when the aging runs. In the broadcast situation of the present application, a delay is necessary before disconnecting to ensure that a service is not in use even after a service shows no registered user. This is because the one registered member prevents (or makes unnecessary) other members from registering to the service, but once the registered member leaves, another member can respond (“register”) to the query to keep the service alive. This multiple user situation does not occur in the cellular phone situation and thus Elwin would not have an “aging” service, only a connect or disconnect. Therefore, it would not be obvious to perform the steps of claims 3, 5 and 6, and these claims should be allowed over the art of record.

Claims 4, 7 and 8 were rejected by the Examiner. However, it is not clear the exact rejection levied against these claims. As method claims, it is not understood what the Examiner is requiring of the “non-functional, descriptive material.” It is presumed that the Examiner is arguing that the recitation is “non-limiting” language and thus a separate rejection of the claims is not required. This is respectfully refuted. Claim 4 requires that the service request is formatted in accordance with an Internet Group Management Protocol. This claim recites the method in which a service request is generated and therefore further limits the independent claim. Claim 4 is thus proper. Likewise, claim 7 recites that the resource is a virtual circuit and claim 8 recites that the resource is bandwidth. These positive limitations certainly fall within 35 USC 101 and further limit the independent claim and are thus proper dependent claims. Therefore, the Applicant requests that this rejection be withdrawn, and for at least the reasons claim 1 is allowable, these claims should also be allowed.

Summary

Applicants have made a diligent and bona fide effort to answer each and every ground for rejection or objection to the specification including the claims and to place the application in condition for final disposition. Reconsideration and further examination is respectfully requested, and for the foregoing reasons, Applicant respectfully submits that this application is in condition to be passed to issue and such action is earnestly solicited. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone Robert N. Blackmon, Applicants' Attorney at 703-684-5633 to satisfactorily conclude the prosecution of this application.

For these reasons, and in view of the above amendments, this application is now considered to be in condition for allowance and such action is earnestly solicited.

A payment of \$120 has been provided with this amendment. No further fees should be due, however, authorization is granted to charge any fee or credit any overpayment associated with this filing to deposit account 50-0562.

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Respectfully submitted,

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